IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

Writ Petition No. 3853 of 2004

Smt Prabhavati Baburao Mhatre
aged 43 years, occ
service r/o at and post
Navade,Taluka Panvel,
Dist.Raigad.. . petitioner

vs

l. The State of Maharashtra
through the Secretary
School Education Department
Mantralaya,
Mumbai.400032

2. The Education Officer(Primary)
Raigad Zilla
Parishad Raigad, at Alibag Dist.Alibag

3. The Secretary Sudhagad Education
Society at
Pali Tal Sudhagad Dist.Raigad

4. The Head Master Sudhagad
Education Society's
Marathi Prathamik Vidyalaya
CIDCO Colony, Kalamboli
Tal Panvel, Dist.Raigad

5. The Chairman/Secretary
Nagaon Shikshan
Sanchalak Mandal Nagaon,
Tal Alibag Dist.Raigad.

6. The Head Master Nagaon
Shikshan Sanstha
Sanchalak Mandal's Primary
School, Nagaon Tal
Alibag Dist.Raigad

7. The Dy Director of Edn
Pune Region. Pune ... ...respondents

Mr N V Bandiwadekar for petitioner

Mr. PI Khemani AGP for respondent nos.l and 7

CORAM;A.P.SHAH & S.C.DHARMADHIKAI JJ

Dated l5.l0.2004

P C:

l. Heard advocate for the petitioner and the learned AGP appearing for the respondent nos.l and 7. Respondent nos. 2 to 6 are absent despite service.

2. The petitioner was appointed as assistant teacher in the respondent no. 4 school with effect from 20.l.200l. The respondent no.4 is a recognized and aided primary school conducted by the respondent no. 3 society which runs three other primary schools. The services of the petitioner were approved on 30.7.200l by the Education Officer. In the year 2003-04 due to reduction in the strength of students some divisions in the respondent no. 4 school were cancelled and, therefore, certain teachers including the present petitioner became surplus.The

petitioner came to be relieved from the respondent no.4 school on l5.8.2003 and she was absorbed in respondent no.6 school. The petitioner joined the respondent no.6 school on l6.l.2004.

3 It appears that the respondent no. 4 school has been granted sanction for additional divisions and consequently some posts of additional teachers are created. The petitioner claims that she is entitled to be repatriated to the respondent no.4 school in accordance with Rule 26 of the MEPS Rules, l98l. It appears that the respondent no. 6 school relieved the petitioner from its school on 6.2.2004 on the ground that the petitioner is liable to be taken back in respondent no. 4 school in view of four additional divisions being sanctioned to the respondent no. 4 school. The respondent no.4 school refused to permit the petitioner to rejoin the school for obvious reason that unless there is order by the Education Officer under Rule 26, petitioner cannot be repatriated to her original school. Under the circumstances the petitioner has rejoined the respondent no.6 school.

4 We direct the respondent no.2 to consider the request of the petitioner for repatriation to the respondent no. 4 school and pass appropriate order in accordance with law after giving opportunity of hearing to concerned parties including respondent no. 4 within a period of three months. It is needless to say that the petitioner would be entitled to the salary of assistant teacher in respondent no.6 school till she is repatriated to the respondent no.4 school. The respondent no. 2 shall release arrears of salary to the petitioner for the period for which the petitioner has actually worked in the respondent no. 6 school. Petition is disposed of in terms of the order mentioned above.